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In re Application of	:	
TRIFONI, Eduardo et al.	:	
Application No.: 10/524,040	:	DECISION ON
PCT No.: PCT/EP03/09554	:	
Int. Filing Date: 28 August 2003	:	PETITION
Priority Date: 28 August 2002	:	
Attorney Docket No.: 267.187	:	UNDER 37 CFR 1.47(a)
For: MEMBRANE ELECTROCHEMICAL	:	
GENERATOR	:	

This is a decision on applicants' "Rule 47(a) Petition," filed in the United States Patent and Trademark Office (USPTO) on 23 September 2005.

#### **BACKGROUND**

On 28 August 2003, applicants filed international application PCT/EP03/09554, which claimed a priority date of 28 August 2002. A copy of the international application was transmitted to the Office on 11 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2005.

On 09 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of the inventors executed by one of the two inventors.

On 15 August 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration was only executed by one of two inventors.

On 23 September 2005, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a supporting declaration.

#### **DISCUSSION**

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (3), and (4) have been satisfied. The balance of the \$200 petition fee will be charged to deposit account no. 02-2275, as authorized. Applicants list Eduardo Trifoni's address as Via Donizetti 5, I-80127 Napoli, Italy. The 09 February 2005 declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

Item (2) has not been satisfied. Applicants have not furnished evidence of receipt of the complete copy of the application papers, including the declaration, by the non-signing inventor. It is unclear from the declaration of Anna Tuosto how the papers were supplied and inventor Trifoni only indicates receipt of and refusal to sign the assignments. A return mail receipt or other evidence supporting applicants' allegation of refusal to join after presentation with a complete copy of the application papers should be included. MPEP 409.03(d).

**CONCLUSION**

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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